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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,086	07/23/2003	Jeffrey A. Lee	2159-A (FJ-99-39A)	5940
7590 11/19/2003			EXAMINER	
Michael W. Ferrell, Esq. Ferrells, PLLC P.O. Box 312 Clifton, VA 20124-1706			ALVO, MARC S	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,086

Applicant(s)

LEE, JEFFREY A.

Examiner

Steve Alvo

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 64-79 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13 and 64-79 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 73-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over KINSLEY.

Claims 73-79 are not limited to kraft pulp. KINSLEY teaches convolving cellulosic fibers in a refiner in an atmosphere of saturated steam to produce a pulp with some degree of curl and excellent freeness, see column 2, lines 18-26 and 55-60, column 4, lines 49-57, column 6, lines 3-11, column 8, lines 16-45 and lines 49-52. The curl index and other properties of the pulp of KINSLEY would be the same as Applicant's pulp as the steps of producing the curl are identical, e.g. refining in a steam atmosphere.

Claims 73-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over BARBE et al.

Claims 73-79 are not limited to kraft pulp. BARBE using teaches a pulp curl index increase of 25% when it is heat-treated, e.g. heat-treated in a refiner. These are the same results claimed by Applicant. Thus unexpected results have not been demonstrated.

Claims 13 and 64-79 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 97/45483.

The process steps cannot be given probative weight in a product claim. WO 97/45483 teaches an absorbent sheet made from kraft pulp having a curl index of 0.15 after treatment (curl index 0.9 before treatment). Any difference would have been an obvious modification of WO 97/45483. Whether the fiber is secondary fiber or new fiber can not be given weight in a product

claim. It does not matter where the fiber came from. The properties of secondary kraft fiber would not differ from kraft fiber after it is made into the absorbent sheet.

Claims 13 and 64-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/45483 as set forth above in the rejection of claim 13, in view of KASSER et al.

If any weight is given to the permanency of the curl, then it would have been obvious to dry the sheet of WO 97/45483 before the fibers restraighthen as such is taught by KASSER et al, see claim 1.

Claims 70-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/45483 with or without KASSER as applied to claim 13 above, further in view of DUNNING et al.

If necessary, DUNNING et al teaches using kraft secondary fibers to produce absorbent products, see Example 1. It would have been obvious to one of ordinary skill in the art that the kraft fibers of WO 97/45483 could be secondary fibers as DUNNING et al teaches using secondary kraft fibers in an absorbent product.

Claims 13 and 64-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "at least 20% higher than the length weighted curl index of the fiber prior to said the non-destructive treatment" is indefinite. The claim is drawn to a product. Relating the curl index to before and after treatment is meaningless in a product claim. This is not a quantitative property.

When filing an "**Official**" FAX in Group 1730, please indicate in the Header (upper

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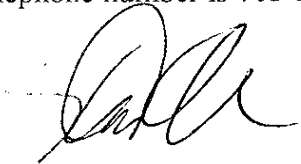
right) **“Official”** for papers that are to be entered into the file. The **“Official” FAX** phone numbers for this TC 1700 is: (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **(703) 308-2048**. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on 703-308-1164.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **703-308-0661**.

MSA
11/17/03



STEVE ALVO
PRIMARY EXAMINER
ART UNIT 1731